GOVERNMENT OF ANDHRA PRADESH
A B S T R A C T

Suits – Arbitration – An amount of Rs.1,50,88,642/-as full and final settlement of claims in O.S.No.14/2002 on the file of the Principal District Judge Court, Kurnool in respect of the work relating to "Excavation and Formation of inlet Channel from Km 119.650 of K.C.Canal to A.B.R.(Alaganur Balancing Reservoir) including CM& CD works under package No..ICB-03" entrusted to M/s Harvins Constructions (P) Ltd., Hyderabad, vide Agreement No. No.SE/ ICC/11/53/1998-99 dated 11.03.1999 – Sanctioned – Orders – Issued.

WATER RESOURCES (ARB) DEPARTMENT

G.O.MS.No. 78 Dated: 10.07.2015.

Read the following:-

1. From the Hon'ble High Court of A.P. Hyderabad, judgement dt. 12-12-2014 in A.S.No.424 of 2011
2. From M.D. M/s Harvins Constructions (P) Ltd., Hyderabad Lr.No.HCPL/ICB - 03/ OS-14/120/dt.01-01-2015
3. From the Engineer-in-Chief (I) Lr. No. ENC (I) / DCE (GDS) OT2 / AEE5/ARBOS14/2002, dated 07-05-2015

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O R D E R:-

The Engineer-in-Chief (I) Hyderbad in his letter 3rd read above, has reported that the work relating to "Excavation and Formation of inlet Channel from Km 119.650 of K.C.Canal to A.B.R.(Alaganur Balancing Reservoir) including CM& CD works" entrusted to M/s Harvins Constructions (P) Ltd., Hyderabad, vide Agreement No. No.SE/ ICC/11/53/1998-99 dated 11.03.1999

2. The contractor executed some scattered bits in clear area available and claimed for Rs.243.62 lakhs along with interest @ 18% for idleness of men and machinery stating that the work could not be executed for want of land acquisition and also claimed for controlled blasting due to the presence of over head Electrical Lines etc. The Department rejected the plea. The contractor approached the Technical Expert in his letter No.HCPL/ICB/03/48/486, dated 17-10-2001 referring the dispute for decision for payment of compensation due to idleness of Men and machinery and for specilized controlled blasting and interest on belated payments.The technical Expert delivered decision on 11-11-2001 and instructed the department to pay compensation of Rs.2,14,42,212/-to contractor treating it as increase in contract price and with simple interest @ 12% from the date of decision till final payment.

3. Aggrieved by the above judgement, the Department filed OS No.14/2002 in the Principal District Judge Court, Kurnool praying to set aside the decision of Technical Expert date 11-11-2001. The Hon'ble Court delivered judgement on 25-11-2010 allowing the decision of the Technical expert and that the contractor is entitled for compensation of Rs.2,14,42,212/- with interest @12% from the date of the decision ie. 11-11-2001 till date of realization.

(P.T.O.)

4. Aggrieved with the judgement of the Principal Distrit judge Court, Kurnool, the Department appealed Suit No.424/2011 in A.P.High Court, Hyderabad on 24-03-2011 questioning the judgement and decree dated 25-11-2010 in OS No.14/2002.

5. After hearing both sides, the Hon'ble High Court by order dated 25-07-2011 stayed the execution of the decree under appeal on the condition that the appellant deposit half of the decretal amount and costs within a period of 10 weeks. Accordingly, the Department deposited an amount of Rs. 2,28,88,700/-.

6. Subsequently, the Hon'ble High Court in its judgement, dated 12.12.2014 in A.S.No.424/2011 has opined that in the interest of Justice and also in the interest of both parties to make an effort of conciliation to the effect of settlement and directed the Department/Contractor to approach the Principal Secretary to Government concerned by filing appropriate comprehensive represenation, the said authority shall hear both sides after giving notice and opportunity and make an effort to conciliate and settle the claim. In pursuance of these directions and on receipt of the representation from the Contracting firm, the matter has been referred to the Conciliation Committee for Andhra Region as constituted for the purpose vide G.O.Rt.No.792, dated 4-12-2014. The Committee has submitted the report.

7. After examination of the Committee report, all the disputed claims have been negotiated with the contrac tor in the Conciliation meeting held on 15-04-2015. During the meeting, he has expressed his willingness to accept the lumpsum amount of Rs. 1,50,88,642/- as full and final settlement of all the claims including interest in respect of O.S.No.14/2002 and given a letter of acceptance.

8. After careful examination of the entire matter, it has been decided to accept the claim offered by the Contracting firm. Accordingly, Government hereby accord sanction of an amount of Rs. 1,50,88,642/- (Rupees One Crore Fifty Lakhs Eighty Eight Thousand Six Hundred and Forty two only) as full and final settlement of all the claims including interest in O.S.No.14/2002 on the file of the Principal District Judge Court, Kurnool, in respect of work relating to "Excavation and Formation of inlet Channel from Km 119.650 of K.C.Canal to A.B.R.(Alaganur Balancing Reservoir) including CM& CD works under package No..ICB-03" entrused to M/s Harvins Constructions (P) Ltd., Hyderabad, vide Agreement No. No.SE/ ICC/11/53/1998-99 dated 11.03.1999, subject to condition that the above said contracting firm should withdraw all legal proceedings pending in the Courts in respect of the above work against the Govt., or its representive Officer after realization of sanctioned amount .

9. The expenditure sanctioned in para (8) above shall be debitable to the detailed Head of Account under " MJH 4700-SMJH01- MH 109 K.C.Canal- GH 11-NSP-SH 27 Canals and Distributories- 530 Major works- 531 other expenditure(Charged).

(continued on page….3)

10. The Chief Engneer (P) Irrigation, Kurnool is directed to deposit the above sanctioned decretal amount to the credit of O.S.No.14/2002 on the file of the Principal District Judge Court, Kurnool, for avoiding further legal complications in the matter. He also directed to obtain a declaration on a notarized affidavits from the above Contracting firm stating that he shall withdraw all legal proceedings in respect of work covered under O.S.No.14/2002 against the Government of Andhra Pradesh or its representative after realization of accepted amount. Further, he is also directed to instruct the disbursing officer concerned to obtain declaration from the above contracting firm accepting the amount as full and final settlement of all its claims before deposting the above sanctioned amount in the resepctive court.

11. This order issues with the concurrence of Finance (W&P) Department vide their U.O.No.7824/56/W&P.I/15, dated 10.06.2015

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRDESH)

ADITYA NATH DAS
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Chief Engineer (P) Irrigation, Kurnool
The Superintending Engineer, Irrigation Circle, Nandyal
The Accountant General, Hyderbad
The District Treasury Officer, Kurnool
The Pay and Accounts Officer, Nandyal
M/s Harvins Constructions (P) Ltd., 8-2-322 H, Road No.3, Banjara Hills, Hyderabad 500 034
Copy to
The P.S. to Minister (Water Resources)
The G.P. for Arbitration, High Court of A.P.Hyderabad
The P.S. to Prl.Secretary , Water Resources Department
The Law (A) Deptt.,
The Finance (W&P) Department
The Water Resources (P&B) Department with a request to release LOC/authorization for the expenditure sanctioned above.

//FORWARDED::BY ORDER//

SECTION OFFICER